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RC-8060**

DR. FADI CHAABAN; DR. SABINO R. TORRE; ) UNITED STATES DISTRICT COURT  
DR. CONSTANTINOS A. COSTEAS and ) DISTRICT OF NEW JERSEY  
DR. ANTHONY J. CASELLA, as Trustees of ) Civil Action  
Diagnostic & Clinical Cardiology, P.A. )  
Profit Sharing Plan, ) Case No. 2:08-cv-1567 (GEB - MCA)  
Plaintiffs, )  
v. ) RETURN DATE: To be Set by Court  
DR. MARIO A. CRISCITO, )  
Defendant. ) DECLARATION OF MARIO A.  
 ) CRISCITO, M.D., IN OPPOSITION TO  
 ) PLAINTIFFS' MOTION FOR SUMMARY  
 ) JUDGMENT  
)

I, MARIO A. CRISCITO, M.D., of full age, do hereby declare:

1) I am a physician duly licensed by the State of New Jersey to practice medicine and surgery, specializing and Board Certified in the practice of cardiology. I am named as the defendant in the above-captioned action. I make this declaration in opposition to the plaintiffs' motion for summary judgment.

2) The plaintiffs identify me as an "employee" of Diagnostic & Clinical Cardiology, P.A. ("DCC"). In fact, I was the founding shareholder of the practice, which I founded in 1976, and was a shareholder as well as an employee.

3) The plaintiffs state that I hired American Pension Corporation ("APC") to act as the third-party administrator of DCC's employee benefit plans. In fact, APC was hired on behalf of DCC, and not by me, personally, to act as the third-party administrator. APC was retained by the

practice, DCC, and not by me in any personal capacity. I retained APC as the principal of DCC, to act on behalf of DCC.

4) The plaintiffs also assert that I am a "real estate developer" and a "businessman." Although I have invested in a few real estate projects over the years, I am by no means a "real estate developer." I am not a "businessman," but a practicing physician. My brother ran a home theater business for many years, until he passed away, and I have not even visited this business for years.

5) The plaintiffs assert that I formed the Money Purchase Pension Plan. Once again, I did not form this Plan for myself, on my own behalf, but rather on behalf of my medical practice, DCC, as DCC's principal.

6) I declare under penalty of perjury that the foregoing statements made by me are true and correct.



Mario A. Criscito, M.D.

Dated: Bridgewater, New Jersey  
October 7, 2010